

Lisa Nix Green v. PACT Board, Montgomery County Circuit Court, CV-2010-900013

On March 16, 2012, the Alabama Supreme Court vacated the PACT settlement. The Court's decision was based upon its interpretation that Ala. Code § 16-33C-19 prohibited the PACT Board from making any modifications of tuition and fee benefits. According to the Court, any attempt to modify benefits -- even with the mutual consent of PACT Contract holders -- would violate § 16-33C-19 and therefore would be void as contrary to law.

Following release of the decision, the Legislature promptly passed Act 2012-198. That legislation repealed § 16-33C-19 and included a new provision to specifically authorize the PACT Board to enter into a resolution with PACT Contract holders. The legislation further repealed the tuition caps set forth in § 16-33C-17.

The Alabama Supreme Court was then asked to reconsider its decision in light of Act 2012-198. By Order dated July 11, 2012, the Court granted reconsideration and remanded the case to the trial court for a determination as to whether a retroactive application of Act 2012-198 would be constitutional. Briefs challenging constitutionality were filed on August 10, 2012. Briefs supporting constitutionality were filed on August 20, 2012, with any replies thereto due on August 24, 2012. The trial court has set a hearing for August 27, 2012 to entertain oral argument on the issue.

Once the trial court issues a ruling on the constitutional question, appellate proceedings will be resumed in the Alabama Supreme Court. That Court subsequently will issue a new decision regarding the validity of the settlement. If the settlement is upheld, PACT will pay all future invoices in compliance with the settlement terms. If the settlement is again rejected, the case will be remanded to the trial court for further litigation.